

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1376 – SB 1401

April 15, 2015

SUMMARY OF ORIGINAL BILL: Authorizes funds in the Second Injury Fund (SIF) under the Workers' Compensation Law to be used for costs associated with legal counsel to defend the administrator in actions claiming compensation from the Fund. Authorizes application and renewal fees from employee and server permits issued under the Alcohol Server Responsibility and Training Act to be used for the implementation and updating of Alcoholic Beverage Commission (ABC) information technology and software. Authorizes the use of State Land Acquisition Fund (SLAF) for capital projects, including improvements and maintenance, at state parks.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue - \$734,000/Recurring/ABC
\$678,100/Recurring/Second Injury Fund

Decrease State Revenue - \$1,412,100/Recurring/General Fund

Increase State Expenditures – \$450,000/One-Time/State Lands Acquisition Fund
\$734,000/Recurring/ABC
\$678,100/Recurring/Second Injury Fund

Decrease State Expenditures – \$1,412,100/Recurring/General Fund

The Governor's proposed budget for FY15-16, page A-40, recognizes a one-time increase in state expenditures to the State Lands Acquisition Fund of \$450,000. Further, the recurring transfer of \$678,100 from the General Fund to the Second Injury Fund is recognized in Volume 2 (Base Budget Reductions), page 41, of the Governor's proposed budget for FY15-16. According to the Department of Finance and Administration, the Governor's proposed budget for FY15-16, page A-11, recognizes a recurring over-appropriation of \$85,000,000 to the General Fund, which would reflect any impact of the proposed legislation on the ABC's reversion from the ABC Fund to the General Fund (estimated to be \$734,000).

SUMMARY OF AMENDMENT (006038, 006563): Amendment 006038 requires \$250,000 to be transferred annually from the State Land Acquisition Fund to the Tennessee Civil War or War Between the States Site Preservation Fund (PF). Amendment 006563 prohibits state funds received by a local government unit to be expended to pay any expenses attributable to a lawsuit filed against a state, state agency, or state official in which the local government unit is

named as a plaintiff. Requires the Department of Finance and Administration (F&A) to deduct from the local government unit's allocation of state-shared taxes or funds a sum to recover such expenses attributable to defending the state in the lawsuit, if the state, agency, or official prevails in the lawsuit.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

**Increase State Revenue - \$734,000/Recurring/ABC
\$678,100/Recurring/Second Injury Fund
\$250,000/Recurring/Preservation Fund**

**Decrease State Revenue - \$1,412,100/Recurring/General Fund
\$250,000/Recurring/State Lands Acquisition Fund**

**Increase State Expenditures – \$450,000/One-Time/State Lands Acquisition Fund
\$734,000/Recurring/ABC
\$678,100/Recurring/Second Injury Fund**

Decrease State Expenditures – \$1,412,100/Recurring/General Fund

Other Fiscal Impact – Currently, there is a lawsuit filed against the state in which the local government unit is named as a plaintiff. If the state prevails in court, there would be a one-time increase in state revenue estimated to exceed \$100,000, and a one-time decrease in local revenue estimated to exceed \$100,000. To the extent the plaintiff is a local education agency (LEA), the LEA will have a reduction in state Basic Education Program (BEP) funding. Any such LEA will either permissively increase local funding to cover the BEP funding reduction or permissively decrease local expenditures by a like amount.

The Governor's proposed budget for FY15-16, page A-40, recognizes a one-time increase in state expenditures to the State Lands Acquisition Fund of \$450,000. Further, the recurring transfer of \$678,100 from the General Fund to the Second Injury Fund is recognized in Volume 2 (Base Budget Reductions), page 41, of the Governor's proposed budget for FY15-16. According to the Department of Finance and Administration, the Governor's proposed budget for FY15-16, page A-11, recognizes a recurring over-appropriation of \$85,000,000 to the General Fund, which would reflect any impact of the proposed legislation on the ABC's reversion from the ABC Fund to the General Fund (estimated to be \$734,000).

Assumptions for the bill as amended:

- Authorizing the use of funds in the SIF for costs associated with legal counsel to defend the administrator against claims on the fund will allow salaries of attorneys employed by the Division of Workers' Compensation to be paid from the SIF, rather than from the General Fund. The resulting recurring transfer from the General Fund to the SIF is

estimated to be approximately \$678,100. This transfer is recognized in Volume 2 (Base Budget Reductions), page 41, of the Governor's recommended FY15-16 budget.

- According to ABC, authorizing application and renewal fees from employee and server permits issued by the Commission to be used for the implementation and updating of information technology and software would result in approximately \$734,000 to be transferred from the General Fund to the ABC Fund on a recurring basis. According to the Department of Finance and Administration, the Governor's proposed budget for FY15-16, page A-11, recognizes a recurring over-appropriation of \$85,000,000 to the General Fund, which would reflect any impact of the proposed legislation on the ABC's reversion from the ABC Fund to the General Fund.
- Authorizing the use of funds in the SLAF for capital projects at state parks, including improvements and maintenance, is estimated to result in a one-time increase in expenditures of \$450,000 to the SLAF for funding for the construction of five bridges along the Cumberland Trail. The Governor's recommended FY15-16 budget recognizes a non-recurring increase in expenditures to the SLAF in the amount of \$450,000.
- There will be a recurring transfer of \$250,000 from the SLAF to the PF as a result of Amendment 006585.
- Currently, there is a lawsuit filed against the state, state agency, or state official in which the local government unit is named as a plaintiff.
- Assuming the state prevails in the trial court, there would be an increase in state revenue, estimated to exceed \$100,000, a decrease in local revenue, estimated to exceed \$100,000. It is assumed that this represents attorney's fees, court costs, and other expenses that would be attributable to defending the lawsuit.
- Any increase in state revenue and any decrease in local revenue as a result of state-shared taxes or funds being decreased to offset state expenditures associated with lawsuits filed by local government units against the state, a state agency, or a state official, if the state, state agency, or state official prevails, is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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